

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

WARREN RICHARDS, *on behalf of*)
himself and all others similarly situated,)

Plaintiff,)

v.)

SHEIN DISTRIBUTION CORPORATION,)

Defendant.)

No: 1:25-cv-01385-TWP-TAB

Hon. Tanya Walton Pratt

Hon. Magistrate Tim A. Baker

**SHEIN DISTRIBUTION CORPORATION’S
MOTION FOR ORAL ARGUMENT REGARDING ITS
MOTION TO DISMISS PURSUANT TO RULE 12(B)(6)**

Defendant Shein Distribution Corporation (“Shein”), by and through undersigned counsel, and pursuant to Local Rule 7.1(b)(2), respectfully requests an in-person oral argument on its Motion to Dismiss Pursuant to Rule 12(b)(6), (Dkt. 16, 17), and in support thereof states as follows:

1. On September 2, 2025, Shein moved to dismiss this action in its entirety pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. 16, 17.)

2. In sum, Plaintiff alleges he received text messages without his consent despite that he is registered on the national do not call registry. (Dkt. 1 ¶¶ 15-22.) Plaintiff asserts a single claim for the alleged violation of 47 U.S.C. § 227(c)(5) (premised on the regulation found at 47 C.F.R. § 64.1200(c)(2)).

3. Shein moved to dismiss on the basis that the private right of action afforded by 47 U.S.C. § 227(c)(5) applies exclusively to “telephone calls” and thus does not apply to text messages. *See* 47 U.S.C. § 227(c)(5).

4. This issue presents exclusively a matter of statutory interpretation, and one that has created a recent split of authority. Indeed, the issue at hand is presently before the Seventh Circuit, following the dismissal of a substantively similar case on the basis that text messages are not covered. *See Jones v. Blackstone Med. Servs., LLC*, 792 F.Supp.3d 894, 2025 WL 2042764, at *4 (C.D. Ill. July 21, 2025), *on appeal* No. 25-2398 (7th Cir.).

5. Since the decision in *Jones*, at least two other courts have ruled similarly that text messages are not covered under 47 U.S.C. § 227(c)(5). *See Davis v. CVS Pharmacy, Inc.*, -- F. Supp. 3d --, 2025 WL 2491195 (N.D. Fla. Aug. 26, 2025); *Sayed v. Naturopathica Holistic Health, Inc.*, No. 8:25-CV-00847-SDM-CPT, 2025 WL 2997759, at *2 (M.D. Fla. Oct. 24, 2025). One court has, after finding “the ordinary meaning of ‘telephone call’ to exclude ‘text message,’” certified the issue for immediate interlocutory review by the Ninth Circuit due to perceived controlling circuit authority. *See Dilanyan v. Hugo Boss Fashions*, No. 25-cv-05093, Dkt. 35 at 3 (C.D. Cal. Dec. 3, 2025).

6. Shein acknowledges that some courts have reached a contrary conclusion (albeit Shein contends these cases were wrongly decided). *See, e.g., Mujahid v. Newity, LLC*, No. 25 C 8012, 2025 WL 3140725, at *1 (N.D. Ill. Nov. 10, 2025).

7. In light of this split of authority, Shein contends oral argument would be beneficial to this Court in weighing these cases and the legal issue at hand.

8. Shein estimates that no more than 1 hour would be needed for this argument.

CONCLUSION

For the foregoing reasons, Shein respectfully requests that this Court schedule oral argument regarding its Motion to Dismiss.

Dated: December 10, 2025

Respectfully submitted,

SHEIN DISTRIBUTION CORPORATION

By: /s/ Mark S. Eisen

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of December, 2025, I electronically filed a true and correct copy of the above and forgoing document with the Southern District of Indiana using the CM/ECF system.

By: /s/Mark S. Eisen
Mark S. Eisen